App. F. IX-4

193 .
( 65 )

File No. 30-38

*Previous References*
Secl 63 28(1-2)

Serial Nos. 1-3

*Letter References.*

PRESERVED

# GENERAL AND REVENUE SECRETARIAT.

*Serial Nos.*

**Part B for**

**SUBJECT.**

Amendment of the Cooperative Societies Act relating to the disposal of appeals. Amendment relating to the registration and amendment of bylaws of Coop. Societies.

WD 0418—GPB—22,500—20-8-35

Serial No.

Extract of Notes in G.S. File 17-38 (DNo 739) re the appeal petn of the Bangalore city Co-operative Society Ltd. on the question of amending the byelaws of ~~the~~ Society

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× × ×

Does not an appeal lie to the Registrar Please quote the provision relating to the delegation of powers to Assistant Registrar"

Sd/- N. M 16/8/37
" P.H.K - do
" Ksd. - do

Mind reference is invited to Paras 43-49 in the linked file (G.S. 76-35) where the question of appeal to Govt on the orders of the Asst Regr must be 11(4) of the Co-Op Act has been discussed It has been accepted therein that under the above section an appeal from the orders of the Asst Registrar shall lie to Govt. A copy of the notfn dated 6-10-34 re the delegation of powers to the Deputy Registrar and the Asst Registrars is also placed below for perusal. Submitted for orders with reference to Para 4 above

Sd/- Secy. L.S.G
17/8/37
" P.S.H.

Member

Sd/- Ksd.
18/8/37
Sd/- P.H.K
18/8/37
Sd/- Ksd. 18/8/37

NOTE—Contn. Sheet.

Serial No.

x x x x

Action may be taken separately to make the orders of the Assistant Registrars appealable to the Registrar in the first instance.

Draft N.M 20/9/38
P.H.K 22/9
K.S. 21/9

x x x

Draft letter to the Registrar is submitted for approval.

16/9/38

Issued 16/9

Issued.

To the Registrar of C.S. D 3060. 26-9-38

Letter No 4848 dated the 19th Oct 1938 from the Registrar of Cooperative Societies suggesting certain amendments to Section 4 of the Act.

A statement containing Sec 4 as it is and as proposed is placed below or beneath. The addition of sub-clause (2) to the section renumbering the existing section as 4 (1) may perhaps be acceptable. The question now for consideration is whether the words "or to any class of Soc

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Sub A. 12/10.

Serial No.

societies" may be omitted as suggested by the Registrar

It is submitted that these words were expressly provided in Regulation V of 1929. The G.O dated the 10th April 1928 provided for the appointment of a Director of Land Mortgage Bank and the bye laws annexed to that order contains the "Director of the Land Mortgage Banks". At the time of framing legislation to implement the G.O. it was considered advisable to provide for the appt. of a separate Registrar for Land Mortgage institutions. and necessary legislation was undertaken to insert the words "or for any class of such societies". The Registrar contends that under the existing pro there will be a provision for two or more Registrars being appointed with identical powers and jurisdiction when the question as to where the appeal have to lie will arise. and that there is no provision in the Act for classifying societies. except under liability. The difficulty of entertaining the appeals to a particular Registrar may come in only when more than one Registrar are appointed and so long there is only one Registrar appointed under the Act the difficulty does not at all arise. In respect of the classification of societies it may be said that the Land

Legis 63-28
Hon. S.T.R.V

NOTE—Contn. Sheet.

2181 4116/P

by File No. 30 of 1938 | General and Revenue Secretariat

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and Home Building Societies

mortgage societies have sprung up as a special type. It is possible that, with the growth of the non-existence of the movement for which special attention is being paid by the Department special types of societies like the marketing societies, industrial societies etc may come up when it may be found necessary to adopt the classification of societies, if they are not done now. The retention of the words suggested for omission by the Registrar does not in any way harm the omission both of the at present/ but the deletion of it might necessitate its reinsertion at a later stage. In this view there does not seem to be any necessity for deleting the phrase as recommended by the Registrar. Subd for orders

Ag 19/12/38 Secy (Legal) 22/12

"or for any class of such Societies" need not be omitted unless there is no existing or future new classes to be removed (2) may be added so that decisions of Registrars of Societies may be appealable to the Registrar, as circumstances and appropriate may require

SECOND MEETING
17 DEC. 1938
No. 4907

16.12.38

(1 member)

For Scrutiny by the Law Section

Law Secy 19.12 19.12 19.12 19.12

4116
P

General and Revenue Secretariat | File No. | of 193 . | [App. F. III—2

Serial No.:

Regis

Please put up the file leading to Regulation V of 1929

BKR
20.12

I do not think it is necessary to delete words ' or for any class of Societies ' in Section 4. These words were advisedly introduced in that Section by Regulation V of 1929 with a view to enable the Govt to appoint a Separate Registrar for any class of Societies, such as Land Mortgage Banks. It is true that no Separate Registrar has been appointed for Land Mortgage Banks. But it is desirable to retain that provision so that, if at any time a need is felt, it may be possible for the Govt to appoint Separate Registrar for any particular class of Societies. The retention of those words would also affect the other amendment proposed to Section 4.

The other amendment in the shape of the new clause (2) is all right so far as it goes. A question would naturally arise whether a party would have the right of a second appeal from the appellate decision

NOTE—Contn. Sheet.

WD 0544—GPB—30,000—2-9-83

File No. of 193 . | General and Revenue Secretariat

or order passed by the Registrar. I may observe that under Section 43 H, the aggrieved party can present a revision petition to Government and therefore there seems to be no necessity to permit a second appeal on a question of fact. A second appeal on a question of law may perhaps be permitted on the analogy of Section 210(2) of the Land Revenue Code. If this view commends itself, I would suggest the addition of a new clause (3) to Section 4 as follows:—

"No appeal shall lie to Government from an appellate decision or order passed by the Registrar except on a point of law"

Add Secy)

23.12

It is desirable & necessary to retain the words "or for any class of Societies" in Sec 4. They were deliberately inserted by Reg V of 1929 to empower Govt to appoint Special Registrars for particular classes of Societies. There is no object in deleting it

Serial No.

In regard to appeals from the Asst. Registrar to the Registrar, the wording suggested by the Registrar is very wide, as according to it appeals will lie in respect of all orders of the Asst. Registrar. The ~~for~~ Act allows appeals only against certain orders. Appeals are allowed against orders under Sections 9, 11, 38A & 43A. Sec 43A is self contained. There is an appeal to the Registrar from the order of the Asst Registrar. There is an appeal to Govt from the original orders of the Registrar & not his appellate orders. There is no second appeal to Govt.

It is therefore necessary to enact a section allowing an appeal to the Registrar where an order is passed by the Asst Registrar under those sections instead of to the Govt. The scheme of the Act is to allow only one appeal and I would suggest that no second appeal to Govt be allowed. In cases of miscarriage of justice or illegality Govt have ample powers of revision under Sec 43H.

The following may be inserted as Section 43I after Section 43H:—

"Notwithstanding anything contained in

NOTE—Contn. Sheet.

WD 0281—GPB—30,000—13-4-37

Amendment of Regulation

C.S File No. 4116/30/1 of 1938. General and Revenue Secretariat (623 T)

OFFICE OF THE SECOND MEMBER OF COUNCIL
29 DEC. 1938
No. 6055

Sections 9, 11, & 38A, appeals against orders passed under these sections by persons appointed to assist the Registrar under section 4, shall lie to the Registrar and his orders in appeal shall be final."

2nd Member) G. 28/12/1938

I.C. 30.12

G 30/12

30/12/38

A draft notice to the Registrar requesting him to include this amendment in the Consolidated Bill which is now being prepared is submitted for approval.

31/1/39

Dev: Chief: Secy

31/1/39

31/1

10.1.39

10/1/39

No. D 6712 dt 16.1.39 to the Regr C.S. 3

Request him to incorporate the amendment in the Consolidated Bill for the amendment of the C.S. Act.

16/1

Appendix F G—1]

SUBJECT.....

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Section 6d.

File No. 30 - 38

Serial No. 1

*Diary No. of letter replied to* .....

No. D 3060

To The Registrar Bd.

Sir

General and Revenue Secretariat

( ),

*the* *193*

Date of issue 26. 9. 38

Signed by Dr 19

I am directed to state that under Section 11 (14) of the Mysore Boorvanthi Societies Act the Registrar is authorised to approve the amendment of the bylaws of Societies and where the Registrar refuses to approve, an appeal shall lie to Govt. ~~and that by notification No D 2578/Cs 63 38-3 dated 5/10/38 the Mysore and Act Registrar has empowered to~~ As the power of approving or otherwise of the bylaws of Societies has been delegated from the Registrar to the Dy. Registrar and Asst Registrars of Co-op. in Govt. Notn D 2578/Cs 63-38-37 dtd 24

List of enclosures.....

Copied by .....

Examined by.....

~~The draft has been sent~~ that appeals

on the decisions of the Deputy and Assistant Registrars are now coming up to Govt. since section 11(4) of the Act.

Govt ~~considered~~ consider that the decisions of the Deputy and Assistant Registrars should be appealable to the Registrar in the first instance and that they should be approached only on the decisions of the Registrar

I am to request you ~~to~~ kindly Manager

~~accept for~~ examine ~~the~~ of this question and forward suitable recommendations to Govt. for consideration

Yours etc

16-9

Secy. L & S

Dy

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. D 3060 / Cs. 30-38-1 *Dated, Bangalore,* 28th September, 1938.

From

*The Secretary to the Government of His Highness the Maharaja of Mysore,*
*Local Self-Government Department.*

To

The Registrar of Co-operative Societies in Mysore,
Bangalore.

Sir,

I am directed to state that under Section 11(1-4) of the Mysore Co-operative Societies Act the Registrar is authorised to approve the amendment of the bye-laws of societies and where the Registrar refuses to approve, an appeal shall lie to Government. As the power of approving or otherwise of the bye-laws of societies has been delegated to the Deputy Registrar and Assistant Registrars of Co-operative Societies in Notification No.D.2578/Cs. 63-33-7 dated 5th October 1934 appeals on the decisions of the Deputy and Assistant Registrars are now coming up to Government direct under Section 11(4) of the Act. Government consider that the decisions of the Deputy and Assistant Registrars should be appealable to the Registrar in the first instance and that they should be approached only on the decision of the Registrar.

I am to request you therefore to kindly examine this question and forward suitable recommendations to Government for consideration.

I have the honour to be,
Sir,
Your most obedient servant,

Secretary to Government,
Local Self-Government Department.

jgn/2.

C.S. 30-38-2

GOVERNMENT OF MYSORE.

No. 4848 C. S.

DEPARTMENT OF CO-OPERATION.

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE.

Telegraphic Address: "CO-OPERT" Bangalore

Dated Bangalore, 19th October 1938.

CS SECTION 20 OCT 1938 GOVT OF MYSORE

GEN. & REVENUE SECRETARIAT. 2181 21 OCT 1938 DEVELOPMENT BRANCH.

FROM

M. ABDUL HUKH, Esq., B.A.,
*Registrar of Co-operative Societies in Mysore,*
BANGALORE.

To

P.H.Krishna Rao,Esq.,M.A.,
Secretary to the Government of Mysore,
Local Self-Government Department,Bangalore.

Sir,

With reference to your letter No.D.3060/C.S.30-38-1 dated 26th September 1938 calling for proposals in the matter of making the decisions of the Deputy and Assistant Registrars of Co-operative Societies appealable to the Registrar in the first instance, and that only the decisions of the Registrar should be appealable to Government, I have the honour to state that it is necessary to amend the Act on the following lines:-

(i) In Section 4, delete the words "or for any class of such societies".

(ii) Renumber the existing Section 4 as 4(1) and introduce the following as Sub-Section (2) of Section 4.

"Notwithstanding anything contained in the provisions of this Act, appeals under the Act against the orders or decisions of the person or persons appointed by Government to assist the Registrar under Section 4(1), shall lie to the Registrar".

Reg letter E 9/1029

2. The deletion of the words "for any class of such societies" is necessary as otherwise, there will be a provision for two or more Registrars being appointed with identical powers and jurisdiction when ~~when~~ the question as to whom the appeals have to lie will arise. Moreover there is no provision in the Act for classifying societies, the only classification recognised by the Act being with regard to liability viz., Limited Liability Societies and Unlimited Liability Societies.

If the above proposals are approved, I shall include this in

P.T.O.

in the Amendment of the Act that is now taken up in connection with Government Orders on the Co-operative Committee Report.

I have the honour to be,
Sir,
Your most obedient servant,

Registrar.

L.S.19/10.

Appendix F G—1]

SUBJECT.....

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Section 6-1

File No. 30-38

Serial No. 3

*Diary No. of letter replied to* .....

General and Revenue Secretariat

( )

*the* *193* .

Date of issue 16. 1. 39.

Signed by Mr. H. N.R.

List of enclosures..... Nil

Copied by .....

Examined by.....

No. D. 6712/C.S. 30-38-3.

To The Registrar of Cs.

Sir

With refce to the Correspondence ending with your letter No 4842 dated 19/10/38 re the appellate powers of the Registrar of Cs. I am directed to request you to kindly incorporate the following amendment in the Consolidated bill for the amendment of the Cs Act which is being drafted by you "Insert the following as 43I"

"43.I. Notwithstanding anything contained in Sections 9. 11. and 38-A appeals against the orders passed under these Sections by persons appointed to assist the Registrar under Section 4

shall lie to the Registrar and his order
in appeal shall be final"

I have etc

Hegg. L.V.S
31.1.39

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

General and Revenue Secretariat.

No. D. 6712/C.S 30-38-3 *Bangalore, dated* 12th January 1939.

FROM

*The Secretary to the Government of*
*His Highness the Maharaja of Mysore.*

To Local Self-Government Department.

The Registrar of Co-operative Societies in Mysore,

BANGALORE.

SIR,

With reference to the correspondence ending with your letter No.4842 dated 19th October 1938 regarding the ~~appellate~~ appellate powers of the Registrar of Co-operative Societies, I am directed to request you to kindly incorporate the following amendment in the consolidate bill for the amendment of the Co-operative Societies Act which is being drafted by you.

"Insert the following as 43 I"

"43 I. Notwithstanding anything contained in Sections 9, 11 and 38 A appeals against the orders passed under these sections by persons appointed to assist the Registrar under Section 4 shall lie to the Registrar and his orders in appeal shall be final".

I have the honour to be,
Sir,
Your most obedient servant,

M/139

Secretary to Government,
Local Self-Government Department.

bks)4.

## Section 4 as it now stands

4. The Government may appoint a person to be Registrar of Cooperative Societies for the whole or any portion of Mysore (or for any class of such Societies) and may appoint persons to assist such Registrar and may by general or special Order confer on any such persons all or any of the powers of a Registrar under this Regulation.

## Section 4 as proposed

4 (1) The Govt may appoint a person to be Registrar of Cooperative Societies for the whole or any portion of Mysore and may appoint persons to assist ---------- any of the powers of a Registrar under this ~~Regulation~~ Act

(2) Notwithstanding anything contained in the provisions of this Act, appeals under the Act against the orders or decisions of the person or persons appointed by Govt to assist the Registrar under Section 4 (1) shall lie to the Registrar